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ART UNIT	PAPER NUMBER
2154	

DATE MAILED: 04/24/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 07-01)

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ___*three*___ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☒ Responsive to communication(s) filed on *Feb 7, 2000*

2a) ☐ This action is **FINAL.**   2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) *1-178* is/are pending in the application.

    4a) Of the above, claim(s) _____ is/are withdrawn from consideratio

5) ☐ Claim(s) _____ is/are allowed.

6) ☒ Claim(s) *1-178* is/are rejected.

7) ☐ Claim(s) _____ is/are objected to.

8) ☐ Claims _____ are subject to restriction and/or election requirement

Application Papers

9) ☒ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.

11) ☐ The proposed drawing correction filed on _____ is: a)☐ approved b)☐ disapproved.

12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

    a)☐ All b)☐ Some* c)☐ None of:

        1. ☐ Certified copies of the priority documents have been received.

        2. ☐ Certified copies of the priority documents have been received in Application No. _____ .

        3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    *See the attached detailed Office action for a list of the certified copies not received.

14) ☒ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

15) ☒ Notice of References Cited (PTO-892)

16) ☒ Notice of Draftsperson's Patent Drawing Review (PTO-948)

17) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). *3*

18) ☐ Interview Summary (PTO-413) Paper No(s). _____

19) ☐ Notice of Informal Patent Application (PTO-152)

20) ☐ Other:

Part III   DETAILED ACTION

Remarks

1.   Claims 1-178 are presented for examination.

Response to Preliminary Amendment

2.   The preliminary amendment (paper no. 2) filed on July 9,
1999 has been entered. The specification includes claims 1-81.
The amendment adds new claims 178-256. The Applicants then filed
a preliminary amendment (paper no. 4) filed on February 7, 2000
adding claims 257-274. Accordingly, there is a gap in the claim
numbering between claims 81 and 178. Applicants must number
additional claims consecutively beginning with the number next
following the highest numbered claim previously presented. 37
C.F.R. 1.126. Pursuant to the rule, the Examiner has renumbered
claims 178-274 as claims 82-178. Attached to this Office action
is a marked up copy of the amendment showing how the claims were
renumbered. **A complete response to this Office action must
include amendments to claims 82-178** changing the dependencies
within the claims.

Information Disclosure Statement

3.   The information disclosure statement filed on July 9, 1999

(paper no. 3 was considered in part. The reference to Motorola

dated July 24, 1995 (second non-patent reference on sheet 2/7)

fails to comply with 37 CFR 1.98(a)(2), which requires a legible

copy of each U.S. and foreign patent; each publication or that

portion which caused it to be listed; and all other information

or that portion which caused it to be listed. Accordingly, the

IDS has been considered in part.

Specification

4.   The specification is objected to under 37 CFR 1.71(a) for

failing to failing to provide an adequate written description of

the subject matter of claims 64-81 and 141-158. Claims 64-81 and

141-158 are written in means plus function form. The Applicant

must amend the specification to state for each and every means

plus function limitation in the claims the corresponding

structure, material or acts to perform the recited function.

Under certain limited circumstances, the written description does

not have to explicitly describe the structure corresponding to a

means-plus-function limitation to particularly point out and

distinctly claim the invention. See Supplemental Examination

Guidelines for Claims Subject to 35 U.S.C. § 112 ¶ 6, 1236 O.G.

98, 101. However, the Guidelines state, that in the situation

such as this one, where the written description only implicitly

or inherently sets forth structure corresponding to a means plus

function, the Examiner may require the applicant to clarify the

record by amending the written description such that it expressly

recites what structure performs the recited function. Id. at

102.

Claim Objections

5.   The claims are objected to under 37 CFR 1.75(f) for failing

to be numbered consecutively. There are two claim 9's. The

Applicants should submit an amendment that removes text

corresponding to the second claim 9. Please note that the second

claim 9 corresponds to claim 159, which was added in the

preliminary amendment filed on July 9, 1999.   and add new claim

104, corresponding to the second claim 9.

6.   Claim 53 is objected to under 37 CFR 1.75(c) as an improper

dependent claim since it does not further limit a preceding

claim. Claim 53 depends on claim 54. For purposes of prior art

rejections in this Office action, claim 53 will be construed as

depending on claim 37.

7.   Claims 82-159 are objected to under 37 C.F.R. 1.75(b)

because they do not substantially differ from claims 1-50, 56-81,

and 91. As to claims 82-158, they are duplicates of claims 1-50

and 56-81, respectively. As to claim 159, it is a duplicate of

claim 91.

Claim Rejections - 35 USC § 103

8.   The following is a quotation of 35 U.S.C. 103(a) which forms

the basis for all obviousness rejections set forth in this Office

action:

> (a) A patent may not be obtained though the invention is not identically
> disclosed or described as set forth in section 102 of this title, if the
> differences between the subject matter sought to be patented and the prior
> art are such that the subject matter as a whole would have been obvious at
> the time the invention was made to a person having ordinary skill in the
> art to which said subject matter pertains. Patentability shall not be
> negatived by the manner in which the invention was made.

9.   This application currently names joint inventors. In
considering patentability of the claims under 35 U.S.C. 103(a),
the examiner presumes that the subject matter of the various
claims was commonly owned at the time any inventions covered
therein were made absent any evidence to the contrary. Applicant
is advised of the obligation under 37 CFR 1.56 to point out the
inventor and invention dates of each claim that was not commonly
owned at the time a later invention was made in order for the
examiner to consider the applicability of 35 U.S.C. 103(c) and
potential 35 U.S.C. 102(e), (f) or (g) prior art under 35
U.S.C. 103(a).

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10. Claims 1-3, 14-25, 29-36, 44, 49-50, 60-66, 78-84, 96-107,

111-118, 126, 131-132, 137-143, 153-158, 161-178 are rejected

under 35 U.S.C. 103(a) as being unpatentable over McCoy et al.,

U.S. Patent No. 5,790,958, in view of Ammons, B., "RBDS for Your

Station!" http://www.crlsystems.com/crl/tech/rbds.htm, Circuit

Research Labs, Inc., pp. 1-13, Sep. 1995, and May, U.S. Patent

No. 5,043,721. In this Office action, any apparatus claim will

be discussed before its corresponding method claim, even though

the method claims numerically precede the apparatus claims.

Since claims 82-84, 96-107, 111-118, 126, 131-132, 137-143, and

153-158 are duplicate claims as discussed above, separate reasons

for rejection will not be given.

Claims 64-66 and 78-81:

11. Regarding claim 64, the preamble will be given patentable

weight since the claim body refers back to the preamble. McCoy

teaches the invention substantially as claimed by disclosing a

data transmission system comprising:

    a.   Remote computing devices (Fig. 1 elem. 20);

    b.   Means for transmitting preprocessed data at said

central broadcast server (Fig. 1 elem. 44);

    c.   Means for instantaneously notifying said computing

devices of receipt of said preprocessed data (Col. 2 lines 51-

62).

12. McCoy does not teach a system comprising:

    a.   Means for transmitting data from an information source

to a central broadcast server;

    b.   Means for preprocessing said data at said central

broadcast server;

c.   Wherein said remote computing devices are notified of
receipt of said preprocessed data whether said computing devices
are on or off.

13.   Ammons on the other hand discloses a system comprising:

a.   Means for transmitting data from an information source
to a central broadcast server (p. 2 FM radio station
transmitter);

b.   Means for preprocessing said data at said central
broadcast server (p. 2 RBDS generator).

14.   It would have been obvious to one of ordinary skill in the
art at the time the invention was made to combine Ammon's system
for preprocessing data from an information server and
broadcasting the data to remote computing devices with the radio
reception system of McCoy based upon McCoy's explicit teaching
that the broadcast signal is encoded and decoded according to the
RBDS standard (Col. 1 lines 25-39).

15.   May on the other hand teaches means for notifying said
computing devices wherein said remote computing devices are
notified of receipt of said preprocessed data whether said
computing devices are on or off (Fig. 2; Col. 3 lines 61-68).

16.   It would have been obvious to one of ordinary skill in the
art at the time the invention was made to combine May's system
for waking up the remote computing device upon the receipt of

data with McCoy's remote computing device because it reduces the

amount of power consumed by the remote computing.

17.   Regarding claim 65, McCoy teaches means for wirelessly

transmitting said preprocessed data to remote receivers (Fig. 1).

18.   Regarding claim 66, McCoy teaches means for transmitting

said preprocessed data using a paging network (Col. 1 lines 58-

67; Col. 2 lines 50-62).

19.   Regarding claim 78, McCoy teaches a system comprising alert

means which when activated allows display of data (Fig. 7 elem.

306).

20.   Regarding claim 79, Ammons teaches means for sending data on

groups of pooled capcodes (pp. 7-9 nonpublic messages).

21.   Regarding claim 80, Ammons teaches means for multiplexing

data over multiple capcodes to be reassembled at said user as if

data were sent over a single capcode (pp. 7-9 nonpublic

messages).

22.   Regarding claim 81, Ammons teaches means for assigning,

transmitting, receiving, and combining (pp. 7-9 nonpublic

messages).

Claims 1-3, 14-25, 29-36, 44, 49-50, 60-63:

23.   Regarding claims 1-3, 14, and 61-63, they are method claims

corresponding to apparatus claims 64-66 and 78-81. Since they do

not teach or define above the information in the corresponding

apparatus claims, they are rejected under the same basis. The

claims correspond as follows: 1 with 64, 2 with 65, 3 with 66, 14

with 78, 61 with 79, 62 with 80, and 63 with 81.

24. Regarding claim 14, McCoy teaches a method comprising

providing alert means which when activated allows display of data

(Fig. 7 elem. 306).

25. Regarding claim 15, McCoy teaches a method wherein said

alert means comprises a visual alert (Fig. 7 elem. 306).

26. Regarding claim 16, McCoy teaches a method wherein said

alert means comprises a audio alert (Fig. 7 elem. 306).

27. Regarding claim 17, McCoy teaches a method comprising

providing a dockable user interface alert panel on a display

communicating with computing device for providing alerts to said

user, wherein said alert panel is dockable on top of other

applications (Col. 14 line 56 to Col. 15 line 13).

28. Regarding claim 18, McCoy teaches a method comprising

displaying fly-in graphics and icon buttons to alert said user

that new data has been received by said computing device (Col. 14

line 56 to Col. 15 line 13).

29. Regarding claim 19, McCoy teaches a method wherein said

alerts reflect type of information present at computing device

(Col. 14 line 56 to Col. 15 line 13).

30. Regarding claim 20, Ammons teaches deriving redundant packets for transmission to said user (p. 7).

31. Regarding claim 21, McCoy teaches parceling a data block into one incoming message, parceling said messages into k packets, and computing a CRC (Fig. 6).

32. Regarding claim 22, McCoy teaches a method wherein packets include information and parity portions (Fig. 2).

33. Regarding claim 23, McCoy teaches a method comprising performing error correction and detection on said code words after said data packets have been parceled (Cols. 10-11).

34. Regarding claim 24, McCoy teaches a method comprising assembling a data block from said code words (Cols. 10-11).

35. Regarding claim 25, McCoy teaches the steps of counting, determining, saving, discarding, and assembling (Cols. 10-12).

36. Regarding claim 29, official notice is hereby taken of the fact that differencing algorithms are well known in the art as a way of compressing data streams in wireless systems.

37. Regarding claim 30, Ammons teaches the step of processing data in accordance with feed type from said information source (pp. 2-4 data groups as feed types).

38. Regarding claim 31, Ammons teaches a method wherein said feed type comprises binary type feeds (p. 2 RBDS signal).

39. Regarding claim 32, McCoy teaches a method wherein said feed type comprises common user information type fields (Col. 2 lines 14-20).

40. Regarding claim 33, Ammons teaches a system wherein said feed type comprises feeds for modifying registry keys which control processing of data (Ammons p. 11 new uses for groups 5, 6, and 7).

41. Regarding claim 34, McCoy teaches a method further comprising the step of using tags to differentiate types of information (Col. 4 lines 29-50).

42. Regarding claim 35, McCoy teaches a method further comprising the step of instantaneously alerting said user to personal alerts through the use of sound, graphics, bit maps or video, wherein said user can instantaneously access information (Col. 14 line 56 to Col. 15 line 13).

43. Regarding claim 36, McCoy teaches a method further comprising the step of encoding said data with information relating to message parameters for filtering (Col. 14 lines 56-67 paging code as filtering parameter).

44. Regarding claim 44, Ammons teaches the step of modifying said preprocessed data instantaneously and wirelessly (p. 2 adding RBDS subcarrier to FM stereo program).

45. Regarding claim 49, McCoy teaches a method wherein said information source may be an Internet access provider providing data feeds (Col. 2 lines 1-13; Col. 13 line 66 to Col. 14 line 4).

46. Regarding claim 50, McCoy teaches a method wherein said information source may be an on-line service provider providing data feeds (Col. 2 lines 1-13; Col. 13 line 66 to Col. 14 line 4).

47. Regarding claim 60, McCoy teaches a method comprising transmitting said preprocessed data utilizing a FM subcarrier, digital, analog, cellular, GSM or PCS carrier (Col. 2 lines 24-39).

Claims 161-178:

48. Regarding claims 161-178, they are broader method claims addressed to essentially the same subject matter as the claims discussed above and are rejected for under the same basis.

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49. Claims 4-6, 67-69, 85-87, and 144-146 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCoy in view of Ammon and May and Schwob, U.S. Patent No. 5,732,338. Since claims 85-87 and 144-146 are duplicate claims as discussed above, separate reasons for rejection will not be given.

Claims 67-69:

50. Regarding claim 67, the combination of McCoy in view of Ammons and Lee teaches the invention substantially as claimed. See section 14 for the rejection of parent claim 65. The combination of McCoy in view of Ammons and Lee does not teach the additional limitation of claim 67. Schwob on the other hand discloses a system wherein preprocessed data is transmitted utilizing a vertical blanking interval (Col. 3 lines 8-13). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the combination of McCoy in view of Ammons in Lee by substituting Schwob's VBI transmission scheme for the FM subcarrier transmission scheme of the combination. This modification would have been obvious given Schwob's teaching that FM subcarrier and VBI transmission schemes are alternate ways of broadcasting data (Cols. 2-3).

51. Regarding claim 68, Schwob teaches means for transmitting said preprocessed data using a satellite system (Col. 2 lines 56-62).

52. Regarding claim 69, Schwob teaches means for transmitting said preprocessed data to remote receivers by wired transmission (Col. 2 lines 56-62).

Claims 4-6:

53. Regarding claims 4-6, they are method claims corresponding

to apparatus claims 67-69, respectively. Since they do not teach

or define above the information in the corresponding apparatus

claims, they are rejected under the same basis.

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54. Claims 7-13, 59, 70-77, 88-95, 136, and 147-154 are rejected

under 35 U.S.C. 103(a) as being unpatentable over McCoy in view

of Ammons and May and Rossman, U.S. Patent No. 5,809,415, and

Jacobson, U.S. Patent No. 5,442,652. Since claims 88-95, 136,

and 147-154 are duplicate claims as discussed above, separate

reasons for rejection will not be given.

Claims 70-77:

55. Regarding claim 70, the combination of McCoy in view of

Ammons and Lee teaches the invention substantially as claimed.

See section 8 for the rejection of parent claim 64.

56. The combination of McCoy in view of Ammons and Lee does not

teach the additional limitation of claim 70.

57. Rossman on the other hand discloses a system further

comprising means for attaching to said preprocessed data an

Internet address location of said preprocessed data (Col. 6).

58. It would have been obvious to one of ordinary skill in the

art at the time the invention was made to combine Rossman's

system for attaching a resource locator to a paging message with

the paging system of the combination of McCoy in view of Ammons

and May. This combination would have been obvious because a

person of ordinary skill in the art would have recognized that

downloading a message including a locator for a much larger

object and subsequently retrieving the larger object through a

higher bandwidth channel conserves the limited bandwidth of the

FM subcarrier channel.

59. Jacobson on the other hand discloses means for providing

said user with an automatic connection back to said information

source for obtaining further information related to said

preprocessed data (Col. 1 lines 23-38 response via dedicated

telephone line). It would have been obvious to one of ordinary

skill in the art at the time the invention was made to combine

the Jacobson's return communication path via telephone line with

the paging system of the combination of McCoy in view of Ammons

and May. This combination would have been obvious because a

person of ordinary skill in the art would have recognized that

downloading a message including a locator for a much larger

object and subsequently retrieving the larger object through a

higher bandwidth channel conserves the limited bandwidth of the

FM subcarrier channel.

60. Regarding claim 71, Rossman teaches a system wherein said

Internet address location is a URL (Cols. 23 & 38).

61. Regarding claim 72, Rossman teaches means for providing an automatic connection back to said information source through a user activating a single function on said computing device (Cols. 12-13).

62. Regarding claim 73, Rossman teaches a system wherein said single function comprises a single click on said computing device (Cols. 12-13).

63. Regarding claim 74, Jacobson teaches a system wherein said connection back to said information source is an automated wired connection (Col. 1 lines 23-38 response via dedicated telephone line).

64. Regarding claim 75, Rossman teaches a system wherein said connection back to said information source is an automated wireless connection (Cols. 11-14).

65. Regarding claim 76, Rossman teaches means for determining, attaching, transmitting, extracting, and displaying (Cols. 11-14).

66. Regarding claim 77, Rossman teaches means for launching an Internet browser and passing said Internet address location to said browser for automatic connection back to said information source (Cols. 11-14).

Claims 7-13 and 58-59:

67. Regarding claims 7-13, they are method claims corresponding to apparatus claims 70-77. Since they do not teach or define above the information in the corresponding apparatus claims, they are rejected under the same basis. The claims correspond as follows: 7 with 70, 8 with 71, 9 with 72, second claim 9 with 73, 10 with 74, 11 with 75, 12 with 76, 13 with 77.

68. Regarding claim 59, the combination of McCoy in view of Ammons and Lee teaches the invention substantially as claimed. See section 8 for the rejection of parent claim 1. The combination of McCoy in view of Ammons and Lee does not teach the additional limitation of claim 58. Rossman on the other hand discloses a method further comprising attaching to said preprocessed data an Internet address location of said preprocessed data for providing to said user a message that causes a process or transaction on said computing device to occur (Cols. 11-14). It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Rossman's system for attaching a resource locator to preprocessed data with the system of the combination of McCoy in view of Ammons and May for the reasons given in the rejection of claim 70.

69.   Regarding claim 59, Rossman teaches a system wherein said

Internet address is a proprietary on-line addressing scheme

(Cols. 19-20 network translator).

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70.   Claims 37-43, 45-48, 56-57, 119-125, 127-130, and 133-134

are rejected under 35 U.S.C. 103(a) as being unpatentable over

McCoy in view of Ammons and May and Beam, M., "A Summary of

Broadcasting Technologies and Potential Applications in Today's

Market," http://www.dungeon.com/~start/rds_0030.html, pp. 1-8,

1994.   Since claims 19-125, 127-130, and 133-134 are duplicate

claims as discussed above, separate reasons for rejection will

not be given.

Claims 37-48:

71.   Regarding claim 37, McCoy teaches the invention

substantially as claimed.   See section 20 for the rejection of

claim 1.   McCoy does not teach the additional limitations of

claim 37.

72.   Beam on the other hand discloses a method further comprising

the steps of:

        a.   Monitoring said transmissions using multiple viewers

(p. 6);

        b.   Filtering said transmitted preprocessed data (p. 6);

        c.   Post processing said preprocessed data (p. 6);

d.   Notifying said user instantaneously of receipt of filtered postprocessed data (p. 6).

73.   It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Beam's method for delivering multiple services to a personal computer using a broadcast network with the data broadcast system of the combination of McCoy in view of Ammons and May. This combination would have been obvious of McCoy's explicit teaching to configure the radio data reception system to "accommodate a user and access only desired information" (Col. 14 lines 41-44).

74.   Regarding claim 38, Beam teaches a method comprising filtering said transmitted preprocessed data in accordance with preferences set by said user (p. 6).

75.   Regarding claim 39, Beam teaches a method comprising setting said preferences with respect to sound, video, and animation (p. 6).

76.   Regarding claim 40, Beam teaches a method comprising filtering said preprocessed data in accordance with virtual addresses (p. 6).

77.   Regarding claim 41, Beam teaches a method comprising filtering said preprocessed data in accordance with physical addresses (p. 6).

78.   Regarding claim 42, Beam teaches the step of controlling

said viewers from said central broadcast server (p. 6).

79.   Regarding claim 43, Beam teaches the step of activating said

preprocessed data at a scheduled time (p. 5).

80.   Regarding claim 45, Beam teaches the step of activating

services wirelessly through activation codes which enable or

disable services (p. 6).

81.   Regarding claim 46, Beam teaches the step of adding viewers

from said central broadcast server (p. 6).

82.   Regarding claim 47, Beam teaches the step of removing

viewers from said central processing server (p. 6).

83.   Regarding claim 48, McCoy teaches the step of recombining,

decoding and decompressing said preprocessed data (Cols. 10-12).

84.   Regarding claim 56, Beam teaches the step of displaying

contextual graphics on said computing device to show data in a

predefined format (p. 6).

85.   Regarding claim 57, Beam teaches the step of claim 57

wherein said predefined format is a scoreboard (p. 6).

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86.   Claims 26-28 and 108-110 are rejected under 35 U.S.C. 103(a)

as being unpatentable over McCoy in view of Ammon and May and

Geiger, U.S. Patent No. 5,701,302. Since claims 108-110 are

duplicate claims as discussed above, separate reasons for

rejection will not be given.

Claims 26-28:

87.   Regarding claim 26, the combination of McCoy in view of

Ammons and Lee teaches the invention substantially as claimed.

See section 20 for the rejection of parent claim 1. The

combination of McCoy in view of Ammons and Lee does not teach the

additional limitation of claim 26. Geiger on the other hand

discloses a system combining Huffman compression and the

dictionary based compression based algorithms (Cols. 1-2; Col.

5). It would have been obvious to one of ordinary skill in the

art at the time the invention was made to combine Geiger's

apparatus for compressing data with the FM subcarrier data

broadcast system of the combination of McCoy in view of Ammons

and May so as to transmit compressed data using the transparent

data channel. This combination would have been obvious because

using compression increases the effective bandwidth of the

transparent data channel.

88.   Regarding claim 27, Geiger teaches a method further

comprising scanning input texts, searching for the next item,

searching for the next item in a static Huffman dictionary, and

choosing said search method which produces a better compression

result (Cols. 5-7).

89.   Regarding claim 28, Geiger teaches a method further

comprising decompressing said compressed data (Fig. 8).

Double Patenting

90.   A rejection based on double patenting of the "same
invention" type finds its support in the language of 35
U.S.C. 101 which states that "whoever invents or discovers any
new and useful process ... may obtain a patent therefor ..."
(Emphasis added). Thus, the term "same invention," in this
context, means an invention drawn to identical subject matter.
See *Miller v. Eagle Mfg. Co.*, 151 U.S. 186 (1894); *In re Ockert*,
245 F.2d 467, 114 USPQ 330 (CCPA 1957); and *In re Vogel*, 422
F.2d 438, 164 USPQ 619 (CCPA 1970).

      A statutory type (35 U.S.C. 101) double patenting rejection
can be overcome by canceling or amending the conflicting claims
so they are no longer coextensive in scope. The filing of a
terminal disclaimer <u>cannot</u> overcome a double patenting rejection
based upon 35 U.S.C. 101.

91.   Claims 51-55 are rejected under 35 U.S.C. 101 as claiming

the same invention as that of claims 1, 2, and 75-77,

respectively of prior U.S. Patent No. 6,021,433. This is a

double patenting rejection.

92.   The nonstatutory double patenting rejection is based on a
judicially created doctrine grounded in public policy (a policy
reflected in the statute) so as to prevent the unjustified or
improper timewise extension of the "right to exclude" granted by
a patent and to prevent possible harassment by multiple
assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed.
Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir.
1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982);
In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970);and, *In re
Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

      A timely filed terminal disclaimer in compliance with 37
CFR 1.321(c) may be used to overcome an actual or provisional
rejection based on a nonstatutory double patenting ground

provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

93. Claims 1-50 and 56-178 are rejected under the judicially

created doctrine of obviousness-type double patenting as being

unpatentable over claims 1-50 and 56-81 of U.S. Patent No.

6,021,433. Claims 1-50 and 56-81 of this application are copies

of the originially filed claims of the patent. The conflicting

claims of the patent and this application are not identical in

scope because the claims of the patent were narrowed during

prosecution. When the narrower claims of the patent are used as

a base reference for purposes of an obviousness type double

patenting rejection, they teach every limitation of the

corresponding claim in this application. The fact that the

narrower patent claims teach more is irrelevant given the

applicants use of the open ended transitional phrase

"comprising". Regarding claims 82-103, they are method claims

corresponding to claims 7-16, 73, and 78 of this applicationand

are rejected for the same reasons. The claims correspond as

follows: 82 with 7, 83 with 7, 84 with 7, 85 with 8, 86 with 9,

87 with 73, 89 with 10, 90 with 12, 91 with 7, 92 with 7, 93 with

12, 94 with 7, 95 with 12, 96 with 13, 97 with 8, 98 with 14, 99

with 78, 100 with 14, 101 with 15, 102 with 12, 103 with 16.

Since claims 82-159 are duplicate claims as discussed above,

separate reasons for rejection will not be given. As to claim

160, it is rejected because, in this case, the difference between

a computing device and a computer is not patentably distinct.

As to claims 161-178, they are broader versions of the claims

discussed above and are obvious in view of claims 1-50 and 56-81

of U.S. Patent No. 6,021,433 for essentially the same reasons

given above.

Conclusion

94. Any inquiry concerning this communication or earlier
communications from the examiner should be directed to Andrew
Caldwell, whose telephone number is **(703) 306-3036**. The examiner
can normally be reached on M-F from 9:00 a.m. to 5:30 p.m. EST.

    If attempts to reach the examiner by phone fail, the
examiner's supervisor, Meng-Ai An, can be reached at (703) 305-
9678. Additionally, the fax numbers for Group 2100 are as
follows:

Official Responses:	(703) 746-7239
After Final Responses:	(703) 746-7238
Draft Responses:	(703) 746-7240

    Any inquiry of a general nature or relating to the status of
this application should be directed to the Group receptionist at
(703) 305-3900.

Andrew Caldwell
April 20, 2002